has no jurisdiction to attach by garnishment proceedings a judgment of a court of another state. *Shinn* v. *Zimmerman,* supra; *Amer. Bank* v. *Snow,* supra. But see *Allen* v. *Watt,* 79 Ill. 284; *Jones* v. *Ry.,* 1 Grant's Cas. (Pa.) 457. In *Tourville* v. *Wabash R. Co.,* 148 Mo. 614, 50 S. W. 300, 71 Am. St. Rep. 650, the Supreme Court of Missouri refused to recognize a judgment of an Illinois court in garnishment proceedings by which the Illinois court had attempted to attach a judgment of a Missouri court. On appeal the United States Supreme Court held that the Illinois court had no jurisdiction and that the Missouri courts were not bound to recognize the Illinois judgment. *Wabash R. Co.* v. *Tourville,* 179 U. S. 322, 21 Sup. Ct. 113, 45 L. Ed. 210. The doctrine of *Harris* v. *Balk,* 198 U. S. 215, 49 L. Ed. 1023, 25 S. Ct. 625, that in garnishment proceedings a court acquires jurisdiction when personal service is had upon the debtor if the laws of the state provide for garnishment of the debt, and if the debtor could have been sued by the defendant within the jurisdiction in which the garnishment proceedings are brought, does not apply to judgment debts, since such demands are already in the custody of the law.

INSURANCE—EFFECT OF INVALIDITY OF WORKMEN'S COMPENSATION LAW.—On January 29, 1910, plaintiff issued to defendant a policy of liability insurance to run for one year. A few months later this policy was extended to cover the liability of the assured under the New York Workmen's Compensation Law. The premium for this additional risk was unpaid at the termination of the policy. On March 2, 1911, *after* the period covered by the policy had expired, the Compensation Law was declared invalid. Action was brought to recover the additional premium and the defense was made that there was no liability to pay the premium because, the act being unconstitutional, there was no liability to insure against, and the contract of insurance was without consideration. *Held,* that the defendant was liable for the amount of the premium. *New Amsterdam Casualty Co.* v. *Olcott,* (1914) 150 N. Y. Supp. 772.

This is apparently the first case to raise the precise question here involved and, in fact, the conclusion of the court is given independently of any preceding decisions or authorities. The decision is based on the idea that an insurable risk sufficient to constitute a consideration did exist because "during all the period (of the policy), the defendant rested under the *possibility* of being cast in damages in the event that accidents such as those insured against had happened." This reasoning, however, avoids the essential issue in the case. Following the doctrine of *Norton* v. *Shelby,* 118 U. S. 425, that "an unconstitutional law is in legal contemplation as inoperative as though it had never been passed," after the Compensation Law had been declared unconstitutional, it could not be presumed that any *possibility* of liability under that law ever existed during the continuance of the policy. Consequently, an insurable risk of this sort never attached. The only other "risk" to be found in the case is that of the Compensation Law being declared valid and so establishing a liability within the policy. But it could hardly be said that

a valid contract of insurance could be made against the effects of a mere judicial decision. Such a contract would be a mere wager on the outcome of a court's deliberations. Viewed in this light, neither "risk" to be established under the facts of the instant case would be sufficient to constitute a consideration to obligate the defendant to pay the premium sought to be recovered. It is true that the liability of the defendant might possibly be argued for under the views expressed in *Gelpcke* v. *Dubuque,* 1 Wall. 175, that the validity and obligation of a contract valid by the law of the state as expounded and administered when the contract is made, cannot be impaired by any subsequent judicial decision declaring such statute unconstitutional. By extreme application, it might be said that under this doctrine a *possibility* of liability did exist within the continuance of the policy. The more logical ground, however, on which to support the conclusion of the defendant's liability is that one incidentally referred to by the court at the end of the decision, i. e., that the defendant should be liable by the very terms of the agreement, the provision being attached that earned premiums should "be retained by the company regardless of the construction which might be given by the courts to the law referred to."

JUDGMENT—RES ADJUDICATA.—The plaintiff, as administrator of the estate of one Sarah A. Murphy, brought a statutory action in tort for her death, alleged to have been caused by the negligence of the defendant. Previously a common-law action had been brought by the deceased during her life to recover damages for conscious suffering arising from the same injury, and after her death the plaintiff had prosecuted the suit to a judgment in his favor. *Held,* that the plaintiff for the purposes of the law of res adjudicata was not the same person in each action. *McCarthy* v. *William H. Wood Lumber Company,* (Mass., 1914), 107 N. E. 438.

This holding is in accord with the decided trend of judicial opinion. The suit of the administrator in the principal case and that previously prosecuted by him rested upon two separate and distinct causes of action. One was common-law, the other statutory; one arose before death in favor of either the intestate or the administrator, the other after death in favor of the administrator only; one was for compensatory damages to be held as assets of the estate, the other for a penalty to be given as a gratuity to the next of kin. See *Boott Mills* v. *Boston & Maine Railroad,* 208 Mass. 582, 106 N. E. 680, and cases there cited. The parties also were different. In an action by an administrator for the conscious suffering of the intestate, the plaintiff stands in the shoes of the deceased, represents the estate, and takes the cause of action as a survival from the intestate. In a statutory action by an administrator for the death of the intestate, the plaintiff stands merely as a convenient instrumentality for the collection of a fine, represents the next of kin, and takes the cause of action as an obligation arising upon the death of the intestate. The identities of the plaintiffs and of the two causes of actions under discussion are clearly shown when the action for death is brought by a public officer for the benefit of the next of kin. *Old Dominion*